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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,448	02/23/2004	Steven Joel Hammer	11457.00	8268
26884	7590	09/21/2005	EXAMINER	
PAUL W. MARTIN LAW DEPARTMENT, WHQ-4 1700 S. PATTERSON BLVD. DAYTON, OH 45479-0001			CAPUTO, LISA M	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/784,448	Applicant(s) HAMMER, STEVEN JOEL	
	Examiner Lisa M. Caputo	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 08 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendment

1. Receipt is acknowledged of the amendment filed 8 July 2005.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acosta et al. (U.S. Patent No. 6,783,072, from hereinafter "Acosta") in view of McMaster (U.S. Patent No. 6,520,415).

Acosta teaches a combined data reader and electronic article surveillance (EAS) system. Regarding claims 1 and 9, Acosta teaches a checkout device and method comprising a barcode reader including a housing (scanner and scan housing 24) having an aperture (window 22) for emitting scanning light beams, a security system in the housing and adjacent the aperture for deactivating security labels on scanned items (EAS coil units 50a, 50b), and an optical element (lens system/window in barcode scanner) in the barcode reader for shifting the scanning light beams to an effective location above the aperture which includes shifting the scanning light beams to an effective location above the aperture for reading a barcode label on an item (see Figures 1-6, col 3 line 15 to col 4 line 55).

Regarding claim 3, Acosta further teaches that the barcode reader includes a plurality of pattern mirrors (pattern mirrors 53), wherein the security system (EAS coil units 50a, 50b) are above the scan mirrors and adjacent the aperture, and that the optical element (lens system/window in barcode scanner) is in the path of the scanning light beams for shifting the scan pattern to an effective location above the aperture (see Figures 4-6, col 3, lines 45-67).

Further regarding claim 5, Acosta teaches that the pattern mirrors are designed to be located at a first distance away from the aperture and produce a first pattern, but are instead relocated to a second distance away from the aperture to accommodate installation of the security system in the housing and produce a second pattern, and an optical element (lens system/window in barcode scanner) in the path of the scanning light beams for shifting the second pattern to produce a third pattern which is about as effective as the first pattern when it is taught that FIGS. 4-6 illustrate the system 10 with portions of the housing removed to better illustrate the internal components. The system 10 includes a first laser module and collector assembly 58a disposed on one side of the unit producing a first laser beam directed onto one side of the polygon mirror 59 and a second laser beam and collector assembly 58b disposed on the other side of the unit from the first assembly 58a producing a first laser beam directed onto one side of the polygon mirror 59. The first and second reading beams are scanned by the polygon mirror 59 across pattern mirrors 53 in the lower housing section 20, usually reflecting off a first (primary) pattern mirror and then a second (secondary) mirror with some of the scan lines being formed by reflection off a third (tertiary) pattern mirror, and then all the

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scan lines being directed out through one of the windows 22, 42 projecting a complex scan pattern into the scan volume. Alternately, the only a single laser diode may be required generating a laser beam which is split by a beam splitter into a first and second reading beams, the first reading beam being directed onto the first side of the polygon mirror 59 and the second reading beam being directed onto the second side of the polygon mirror 59 (see Figures 4-6, col 3 lines 45-67).

Regarding claim 7, Acosta teaches a checkout device comprising a housing (housing 12), a barcode reader (scanner) in the housing, including pattern mirrors (mirrors 53) for producing scanning light beams, a weigh plate (weigh platter 30) above the housing, including an aperture for emitting the scanning light beams, an optical element (lens system/window in barcode scanner) in the path of the scanning light beams for shifting the scanning light beams, and a security system (EAS coil units 50a, 50b) beneath the weigh plate and adjacent the optical element in a location for facilitating scanning of items and deactivation of security labels on the items during a single swipe of the items over the weigh plate (see Figures 1-6, col 3 line 15 to col 4 line 55).

Regarding independent claims 1, 3, 5, 7, and 9, although Acosta does teach the use of an optical element, which is well known in the art to refract light which passes through, Acosta does not specifically disclose that the optical element is constructed and disposed to refract the scanning light beams reflected from the pattern mirrors in the bar code reader such that the scanning light beams trace out a scan pattern

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displaced from the scan pattern that would be traced out by the scanning light beams in the absence of the optical element.

McMaster teaches a barcode reading device with a photodetector including a lenticular array. McMaster discloses that, referring to FIG. 7(b), an alternative embodiment of the horizontal space regions 108' is shown. Space region 108' is bar bell shaped such that the vertical dimension 120 in the center of the horizontal space region 108' is smaller than the vertical dimension 122 at the ends of the horizontal space region 108'. It should be appreciated that lens element 104 will refract illumination from the center of the horizontal field of view towards the center of horizontal space region 108' and will refract illumination from the edges of the horizontal field of view towards the ends of horizontal space region 108'. As the vertical dimension 122 is larger than the vertical dimension 120, the vertical field of view at the ends of the horizontal field of view will be greater than the vertical field of view in the center of the horizontal field of view. This relationship will tend to compensate for the fact that the reflected illumination is more intense in the center of the horizontal field of view leveling the average intensity of illumination incident on the photosensor 80" (see Figures 7(a)-7(b), col 8 line 52 to col 9 line 2). Hence, McMaster teaches that a conventional optical element (i.e. a lens) refracts the scanning light beams in order to trace out a scan pattern displaced from the scan pattern that would be traced out by the scanning light beams in the absence of the optical element.

In view of the teaching of McMaster, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use an optical element (i.e.

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a conventional lens or glass block) that refracts the scanning light in order to displace the scan pattern because it is favorable to be able to direct light and scan patterns where they are needed for the optical system. In this case, the barcode scanners need the light to be displaced from their original scan patterns, hence, the light pattern is directed to other mediums and objects for use.

Regarding claims 2, 4, 6, and 8 Acosta teaches that the optical element comprises a glass block implemented by the lower window 26 (see Figures 1-6, col 4, lines 46-55).

Response to Arguments

3. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

4. Examiner appreciates applicant's arguments that the claims, as amended with the further limitations, are not specifically disclosed by Acosta and has provided new prior art in the form of McMaster.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent No. 4,942,483 to Kinoshita, which teaches a multi-chip type contact image sensor.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Lisa M. Caputo** whose telephone number is **(571) 272-2388**. The examiner can normally be reached between the hours of 8:30AM to 5:00PM Monday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached at **(571) 272-2398**. The fax phone number for this Group is (571) 273-8300.


Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to **[lisa.caputo@uspto.gov]**.

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


LMC

September 18, 2005


DIANE I. LEE
PRIMARY EXAMINER